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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA

11                  ARIEL BEN-SHIMOL,

12                  Plaintiff,

13                  v.

14                  T-MOBILE USA INC.,

15  
16                  Defendant.

17                  CASE NO. 2:21-cv-01314-RSM-JRC

18  
19                  STIPULATED PROTECTIVE  
20                  ORDER

21  
22                  I.        STIPULATION

23                  A.      Purposes and Limitations.

24                  Discovery in this action is likely to involve production of confidential, proprietary, or  
private information for which special protection may be warranted. Accordingly, Plaintiff Ariel  
Ben-Shimol (“Plaintiff”) and Defendant T-Mobile USA, Inc. (“Defendant”) (collectively, the  
“Parties”) hereby stipulate to and petition the court to enter the following Stipulated Protective  
Order. The Parties acknowledge that this agreement is consistent with LCR 26(c). It does not  
confer blanket protection on all disclosures or responses to discovery, the protection it affords  
from public disclosure and use extends only to the limited information or items that are entitled

1 to confidential treatment under the applicable legal principles, and it does not presumptively  
2 entitle parties to file confidential information under seal.

3       **B. “Confidential” Material.**

4       “Confidential” material shall include the following documents and tangible things  
5 produced or otherwise exchanged:

- 6       1. Any material containing, disclosing, or otherwise implicating personal healthcare  
information;
- 7       2. Defendant’s non-public financial data, including but not limited to annual  
budgets, salary and compensation information, financial statements related to  
Defendant and its facilities, tax filings and associated documents, and any  
financial information related to joint ventures or other collaborative projects;
- 8       3. Personal financial data related to Plaintiff including tax, accounting, and personal  
banking records and information;
- 9       4. Employee personnel records, including non-public disciplinary records;
- 10      5. All non-public proprietary information, including but not limited to any materials  
related to trade secrets, unpublished patent applications, trade secrets, or non-  
public intellectual property;
- 11      6. Other material that is designated confidential by agreement of the Parties, by  
court order, or by statute.

12       **C. Scope.**

13       The protections conferred by this agreement cover not only confidential material (as  
defined above), but also (1) any information copied or extracted from confidential material;  
14 (2) all copies, excerpts, summaries, or compilations of confidential material; (3) any discovery  
response, written or verbal, that includes confidential material; (4) any testimony, conversations,  
15 or presentations by parties or their counsel that might reveal confidential material.

16       However, the protections conferred by this agreement do not cover information that is in  
17 the public domain or becomes part of the public domain through trial or otherwise.  
18

1           **D. Access to and Use of Confidential Material.**

2           **1. Basic Principles.**

3           A receiving party may use confidential material that is disclosed or produced by another  
4 party or by a non-party in connection with this case only for prosecuting, defending, or  
5 attempting to settle this litigation. Confidential material may be disclosed only to the categories  
6 of persons and under the conditions described in this agreement. Confidential material must be  
7 stored and maintained by a receiving party at a location and in a secure manner that ensures that  
access is limited to the persons authorized under this agreement.

8           **2. Disclosure of “CONFIDENTIAL” Information or Items.**

9           Unless otherwise ordered by the court or permitted in writing by the designating party, a  
10 receiving party may disclose any confidential material only to:

- 11           a. The Parties named in this matter, including the receiving party’s counsel of record  
12           in this action, as well as employees of counsel to whom it is reasonably necessary  
13           to disclose the information for this litigation;
- 14           b. The officers, directors, and employees (including in house counsel) of the  
15           receiving party to whom disclosure is reasonably necessary for this litigation,  
16           unless the Parties agree that a particular document or material produced is for  
17           Attorney’s Eyes Only and is so designated;
- 18           c. Experts and consultants to whom disclosure is reasonably necessary for this  
19           litigation and who have signed the “Acknowledgment and Agreement to Be  
20           Bound” (Exhibit A);
- 21           d. The court, court personnel, and court reporters and their staff;
- 22           e. Copy or imaging services retained by counsel to assist in the duplication of  
23           confidential material, provided that counsel for the party retaining the copy or  
24           imaging service instructs the service not to disclose any confidential material to  
third parties and to immediately return all originals and copies of any confidential  
material;

- 1           f. During their depositions, witnesses in the action to whom disclosure is reasonably  
2 necessary and who have signed the “Acknowledgment and Agreement to Be  
3 Bound” (Exhibit A), unless otherwise agreed by the designating party or ordered  
4 by the court. Pages of transcribed deposition testimony or exhibits to depositions  
5 that reveal confidential material must be separately bound by the court reporter  
6 and may not be disclosed to anyone except as permitted under this agreement;  
7  
g. The author or recipient of a document containing the information or a custodian  
8 or other person who otherwise possessed or knew the information; and  
9  
h. The employees and/or representatives for any insurer for the Parties, to the extent  
10 the disclosure is or may be related to coverage afforded the receiving party by the  
11 insurer for any of the claims herein;

12           **3. Filing Confidential Material.**

13           Before filing confidential material or discussing or referencing such material in court  
14 filings, the filing party shall confer with the designating party, in accordance with LCR  
15 5(g)(3)(A), to determine whether the designating party will remove the confidential designation,  
16 whether the document can be redacted, or whether a motion to seal or stipulation and proposed  
17 order is warranted. During the meet and confer process, the designating party must identify the  
18 basis for sealing the specific confidential information at issue, and the filing party shall include  
19 this basis in its motion to seal, along with any objection to sealing the information at issue. LCR  
20 5(g) sets forth the procedures that must be followed and the standards that will be applied when a  
21 party seeks permission from the court to file material under seal. A party who seeks to maintain  
22 the confidentiality of its information must satisfy the requirements of LCR 5(g)(3)(B), even if it  
23 is not the party filing the motion to seal. Failure to satisfy this requirement will result in the  
24 motion to seal being denied, in accordance with the strong presumption of public access to the  
Court’s files.

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1           **E. Designating Protected Material.**

2           **1. Exercise of Restraint and Care in Designating Material for Protection.**

3           Each party or non-party that designates information or items for protection under this  
4 agreement must take care to limit any such designation to specific material that qualifies under  
5 the appropriate standards. The designating party must designate for protection only those parts of  
6 material, documents, items, or oral or written communications that qualify, so that other portions  
7 of the material, documents, items, or communications for which protection is not warranted are  
not swept unjustifiably within the ambit of this agreement.

8           Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
9 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to  
10 unnecessarily encumber or delay the case development process or to impose unnecessary  
expenses and burdens on other parties) expose the designating party to sanctions.

12          If it comes to a designating party's attention that information or items that it designated  
13 for protection do not qualify for protection, the designating party must promptly notify all other  
parties that it is withdrawing the mistaken designation.

14           **2. Manner and Timing of Designations.**

15          Except as otherwise provided in this agreement (see, e.g., second paragraph of section  
16 5.2(a) below), or as otherwise stipulated or ordered, disclosure or discovery material that  
17 qualifies for protection under this agreement must be clearly so designated before or when the  
material is disclosed or produced.

19          Information in documentary form: (e.g., paper or electronic documents and deposition  
exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings), the  
20 designating party must affix the word "CONFIDENTIAL" to each page that contains  
21 confidential material. If only a portion or portions of the material on a page qualifies for  
22 protection, the producing party also must clearly identify the protected portion(s) (e.g., by  
23 making appropriate markings in the margins).

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1       **Testimony given in deposition or in other pretrial proceedings:** the Parties and any  
 2 participating non-parties must identify on the record, during the deposition or other pretrial  
 3 proceeding, all protected testimony, without prejudice to their right to so designate other  
 4 testimony after reviewing the transcript. Any party or non-party may, within fifteen days after  
 5 receiving the transcript of the deposition or other pretrial proceeding, designate portions of the  
 6 transcript, or exhibits thereto, as confidential. If a party or non-party desires to protect  
 7 confidential information at trial, the issue should be addressed during the pretrial conference.

8       **Other tangible items:** the producing party must affix in a prominent place on the  
 9 exterior of the container or containers in which the information or item is stored the word  
 10 “CONFIDENTIAL.” If only a portion or portions of the information or item warrant protection,  
 11 the producing party, to the extent practicable, shall identify the protected portion(s).

12              **3. Inadvertent Failures to Designate.**

13       If timely corrected, an inadvertent failure to designate qualified information or items does  
 14 not, standing alone, waive the designating party’s right to secure protection under this agreement  
 15 for such material. Upon timely correction of a designation, the receiving party must make  
 16 reasonable efforts to ensure that the material is treated in accordance with the provisions of this  
 17 agreement.

18              **F. Challenging Confidentiality Designations.**

19              **1. Timing of Challenges.**

20       Any party or non-party may challenge a designation of confidentiality at any time. Unless  
 21 a prompt challenge to a designating party’s confidentiality designation is necessary to avoid  
 22 foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or  
 23 delay of the litigation, a party does not waive its right to challenge a confidentiality designation  
 24 by electing not to mount a challenge promptly after the original designation is disclosed.

25              **2. Meet and Confer.**

26       The Parties must make every attempt to resolve any dispute regarding confidential  
 27 designations without court involvement. Any motion regarding confidential designations or for a

1 protective order must include a certification, in the motion or in a declaration or affidavit, that  
 2 the movant has engaged in a good faith meet and confer conference with other affected parties in  
 3 an effort to resolve the dispute without court action. The certification must list the date, manner,  
 4 and participants to the conference. A good faith effort to confer requires a face-to-face meeting  
 5 or a telephone conference.

6           **3.        Judicial Intervention.**

7           If the Parties cannot resolve a challenge without court intervention, the designating party  
 8 may file and serve a motion to retain confidentiality under LCR 7 (and in compliance with LCR  
 9 5(g), if applicable). The burden of persuasion in any such motion shall be on the designating  
 10 party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose  
 11 unnecessary expenses and burdens on other parties) may expose the challenging party to  
 12 sanctions. All Parties shall continue to maintain the material in question as confidential until the  
 court rules on the challenge.

13           **G.        Protected Material Subpoenaed or Ordered Produced in Other Litigation.**

14           If a party is served with a subpoena or a court order issued in other litigation that compels  
 15 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that  
 16 party must:

- 16           1.        Promptly notify the designating party in writing and include a copy of the  
 17                 subpoena or court order;
- 18           2.        Promptly notify in writing the party who caused the subpoena or order to issue in  
 19                 the other litigation that some or all of the material covered by the subpoena or  
 20                 order is subject to this agreement. Such notification shall include a copy of this  
 21                 agreement; and
- 22           3.        Cooperate with respect to all reasonable procedures sought to be pursued by the  
 23                 designating party whose confidential material may be affected.

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1           **H. Unauthorized Disclosure of Protected Material.**

2       If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential  
3 material to any person or in any circumstance not authorized under this agreement, the receiving  
4 party must immediately:

- 5           1. Notify in writing the designating party of the unauthorized disclosures,  
6           2. Use its best efforts to retrieve all unauthorized copies of the protected material;  
7           3. Inform the person or persons to whom unauthorized disclosures were made of all  
8           the terms of this agreement; and  
9           4. Request that such person or persons execute the “Acknowledgment and  
10           Agreement to Be Bound” that is attached hereto as Exhibit A.

11           **I. Inadvertent Production of Privileged or Otherwise Protected Material.**

12       When a producing party gives notice to receiving parties that certain inadvertently  
13 produced material is subject to a claim of privilege or other protection, the obligations of the  
14 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This  
15 provision is not intended to modify whatever procedure may be established in an e-discovery  
16 order or agreement that provides for production without prior privilege review. The Parties agree  
17 to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

18           **J. Non Termination.**

19       The confidentiality obligations imposed by this agreement shall remain in effect until a  
20 designating party agrees otherwise in writing or a court orders otherwise.

21           **K. Return/Destruction of Protected Material.**

22       Upon written request made fifteen days after the effective date of the settlement or entry  
23 of final judgment (in the event there is an appeal, “entry of final judgment” shall mean the date  
24 on which the appellate court affirms the judgment), the Parties shall have thirty days to either (1)  
promptly return to counsel for each designating party all confidential materials and all copies  
thereof (except that counsel for each party may maintain a complete copy of the entire file) or (2)  
agree with counsel for the designating party upon appropriate methods and certification of

1 destruction or other disposition of such confidential materials. To the extent permitted by law,  
2 the court shall retain continuing jurisdiction to review and rule upon any related dispute.  
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4

STIPULATED this 29th day of November, 2021.

5 JIMMY GARG PLLC  
6 Attorney for Plaintiff Ariel Ben-Shimol  
7 *Via email authority provided to Rebecca*  
8 *Shelton, WSBA #55711, on 11/29/2021:*

9 By /s/ Jimmy Garg  
10 Jimmy Garg, WSBA #49049  
11 300 Lenora Street #1063  
12 Seattle, WA 98121  
13 Telephone: 206.580.3790  
14 Fax: 206.736.3218  
15 Email: [jimmy@jimmygarg.com](mailto:jimmy@jimmygarg.com)

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1                   **II. ORDER**

2                   PURSUANT TO STIPULATION, IT IS SO ORDERED.

3                   IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any  
4 documents in this proceeding shall not, for the purposes of this proceeding or any other federal  
5 or state proceeding, constitute a waiver by the producing party of any privilege applicable to  
6 those documents, including the attorney-client privilege, attorney work-product protection, or  
any other privilege or protection recognized by law.

7                   Dated this 30th day of November, 2021.

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10                   J. Richard Creatura  
11                   Chief United States Magistrate Judge  
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EXHIBIT A

## ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Western District of Washington on \_\_\_\_\_ [date] in the case of *Ariel Ben-Shimol v. T-Mobile USA, Inc.*, Case No. 2:21-cv-01314-RSM-JRC (W.D. Wash.). I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

Date: \_\_\_\_\_

City and State: \_\_\_\_\_  
(where sworn and signed)

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_